## UNITED STATES DISTRICT COURT DISTRICT OF NEVADA LAS VEGAS, NEVADA

CHARLES BARNARD et al.,	) - ) - )
Plaintiff,	) Case No. 2:03-CV-1524-RCJ-LRL
vs. LVMP et al.,	) ) MINUTES OF COURT )
Defendant.	) ) Date: January 27, 2011
PRESENT: THE HONORABLE ROBERT C. JONES, U.S. DISTRICT JUDGE DEPUTY CLERK: LESA ETTINGER REPORTER: MARGARET GRIENER	
COUNSEL FOR PLAINTIFFS: PAOLA ARMENI AND MARGARET LAMBROSE	
COUNSEL FOR DEFENDANTS: PETER ANGULO and KATHERINE GORDOON	

## PROCEEDINGS: JURY TRIAL (DAY FOUR)

Also present in the courtroom: Plaintiff Charles Barnard; Defendants Gary Clark, Greg Theobald and Stevan Radmanovich.

9:03 a.m. Court convenes outside the presence of the jury.

Preliminary matters are discussed between the Court and counsel. Ms. Armeni moves to amend the complaint pursuant to FRCP 15(b) and reconsideration of the Court's Order dismissing Plaintiff's Intentional Infliction of Emotional Distress claim. Mr. Angulo present argument in opposition. For reasons set forth on the record, the Court denies the motions.

9:18 a.m. Jurors enter the Courtroom.

**Rita Barnard**, previously sworn, resumes the stand and testifies on cross examination by Mr. Angulo and redirect examination by Ms. Armeni.

10:47 a.m. Jury is admonished and excused.

Court and counsel confer.

10:50 a.m. Court stands at recess.

11:16 a.m. Court reconvenes in the presence of the jury.

Rita Barnard, previously sworn, resumes the stand and testifies further on redirect examination by Ms. Armeni, then excused.

Plaintiff rest case-in-chief.

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11:20 a.m. Jury is admonished and excused.

Mr. Angulo moves for a mistrial. Ms. Armeni present argument in opposition.

IT IS ORDERED Defendants' motion for a mistrial is denied. The Court sets forth reasons for the ruling on the record.

Mr. Angulo moves for Judgment as a Matter of Law pursuant to Rule 50. Ms. Armeni present argument in opposition.

IT IS ORDERED Defendants' motion for Judgment as a Matter of Law pursuant to Rule 50 is denied without prejudice. The Court sets forth reasons for the ruling on the record.

The Court hears arguments and rules on evidentiary issues. The Court grants Plaintiff's motions to exclude the testimony of Tom Cicero, Venita Portillo and Don Cameron. The Court denies Plaintiff's motion to exclude the testimony of Dr. Mashhood.

12:31 p.m. Court stands at recess.

1:22 p.m. Court reconvenes in the presence of the jury.

The deposition of ROY NELSON is published to the jury by Mr. Angulo and Ms. Gordon. Plaintiff's exhibits 1 and 3 page 1, are marked, offered and admitted into evidence. Defendants' exhibit 568 is marked, offered and withdrawn by Mr. Angulo.

Gary Clark is called to the stand. The witness is sworn and testifies on direct examination by Mr. Angulo. Plaintiff's exhibit 3-A pages 2, 3, and 4 are marked, offered and admitted into evidence. Defendants' exhibit 516 pages 005, 006, 007, and 008 is marked, offered and admitted into evidence.

3:21 p.m. Jury is admonished and excused. Court stands at recess.

3:43 p.m. Court reconvenes in the presence of the jury.

Gary Clark, previously sworn, resumes the stand and testifies on cross examination by Ms. Armeni and redirect examination by Mr. Angulo, then excused. Plaintiff's exhibit 5 bate stamp 543 is marked, offered and admitted into evidence. Plaintiff's exhibit 146 is marked only.

5:05 p.m. Jury is admonished and excused.

Court and counsel confer on proposed Jury Instructions.

IT IS ORDERED that trial is continued to Friday, 1/28/2011 at 9:00 a.m.

5:11 p.m. Court adjourns.

LANCE S. WILSON, CLERK
U.S DISTRICT COURT
By: \_\_\_\_/s/\_\_\_\_

Lesa Ettinger, Deputy Clerk